

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.) 1:04 CR 10074-01-JLT
PHILLIP HYDE)
Defendant,)
)
and)
)
BICKNELL & SMITH, LLP)
Garnishee.)

NOTICE OF GARNISHMENT AND INSTRUCTIONS

TO: PHILLIP HYDE

YOU ARE HEREBY NOTIFIED that a Garnishment was issued based upon a judgment entered against you on June 28, 2002, and the Garnishment was served on the Garnishee, Bicknell & Smith, LLP and it is believed that the Garnishee may have property of yours in their custody, possession or control.

YOU ARE FURTHER NOTIFIED that, unless within twenty (20) days from the date of receipt of the Answer of the Garnishee, you file a written objection to explain why you think these funds are exempt from execution under state or federal law and request a hearing, a Court Order will be entered attaching the funds or property to be applied against the judgment owed the United States of America.

Any objection that you file to contest the garnishment must be filed in the office of the Clerk of the United States District Court, 1 Courthouse Way, Suite 2300, Boston, MA 02210. The objection must state your reasons for believing that this property is not subject to attachment by the United States of America. A copy of the objection or other pleadings must also be served

on Christopher R. Donato, Assistant U.S. Attorney, Financial Litigation Unit, 1 Courthouse Way, Suite 9200, Boston, MA 02210.

YOU MAY WISH TO CONSULT A LAWYER FOR ADVICE AS TO THE MEANING OF THIS NOTICE.

UNITED STATES OF AMERICA
By its attorneys

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Christopher R. Donato

CHRISTOPHER R. DONATO
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3303

Dated: August 15, 2005

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REQUEST FOR HEARING

 I hereby request a court hearing. Send Notice of the hearing to me by mail at:

_____,
(Address)

or

by phone at: _____.

Date

Signature of defendant

Defendant's typed or printed name

INSTRUCTIONS TO DEFENDANT DEBTOR ON
HOW TO CLAIM EXEMPTIONS

The United States of America has applied for a Writ of Garnishment to be issued against funds being held on your behalf by a third party. It will be issued because there is a judgment against you.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. The attached Claim for Exemption Form lists the exemptions under federal law and Massachusetts state law which may be applicable to you. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption from garnishment, you should do the following promptly:

1. Fill out the attached Claim for Exemption Form.
2. Deliver or mail the Form to the Clerk's Office of the United States District Court, John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210.
3. Deliver or mail the Forms to the United States Attorney's Office, Financial Litigation Unit, 1 Courthouse Way, Suite 9200, Boston, MA 02210.

If you elect, you have the right to a hearing within five business days, or as soon as possible, from the date you file the completed Claim for Exemption Form with the Clerk. In order to obtain this hearing, you must check the box provided on the attached Claim for Exemption Form.

On the day of the hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

If the listed exemptions on the Form are not applicable and you do not claim an exemption, do not complete and file the Claim for Exemption Form.

It may be helpful to you to seek the advice of an attorney in this matter.

INSTRUCTIONS TO THE GARNISHEE

Pursuant to the Federal Debt Collections Procedures Act of 1990, 28 U.S.C. §3205(c)(3)(A), the United States serves the following instructions upon the Garnishee:

1. Enclosed is a Writ of Garnishment requesting that you determine whether or not you have in your possession, custody or control any of the property of the debtor listed therein, or any other property of the debtor.

2. You are required by law to serve a written answer to this Writ within 10 days of the service of this Writ. You are further required to withhold and retain any property in which the debtor has a substantial non-exempt interest.

3. DO NOT SEND THIS MONEY TO THE UNITED STATES ATTORNEY'S OFFICE AT THIS TIME; THE FEDERAL DEBT COLLECTION PROCEDURES ACT REQUIRES THAT THE GARNISHEE WITHHOLD SUCH MONEY PENDING THE ISSUANCE OF THE FINAL ORDER. WHEN A FINAL ORDER IS ISSUED IN THIS MATTER, YOU WILL BE SERVED WITH A COPY OF THAT ORDER WITH INSTRUCTIONS AS TO WHERE TO SEND THE GARNISHMENT PAYMENTS.

5. If you fail to answer this Writ or to withhold property in accordance with the Writ, the Court may make you liable for that amount of the debtor's non-exempt property which you failed to withhold. Additionally, you may be held liable for a reasonable attorney's fee to the United States of America if the United States filed a petition to the Court requesting an explanation for your failure to comply with this Writ.

6. A form answer has been included with these instructions for your use, should you desire to use it. You are not required to use the form answer. If you use the form answer, please fill out the information completely and send the original to the Clerk of Court as directed in the Writ of Garnishment. Copies of your answer must be mailed to the United States Attorney's Office and the defendant.

7. If you have any additional questions concerning this procedure, please call the United States Attorney's Office, Financial Litigation Unit, at telephone number (617) 748-3288, or by mail to: United States Attorney's Office, Financial Litigation Unit, 1 Courthouse Way, Suite 9200, Boston, MA 02210. The United States Attorney's Office cannot provide you with legal advice on this matter; for legal advice, you should contact an attorney.

If you are unsure of how to proceed, you may want to consult an attorney.

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ANSWER OF THE GARNISHEE

_____, BEING DULY SWORN DEPOSES AND SAYS:
(Affiant)

IF GARNISHEE IS AN INDIVIDUAL:

That he/she is Garnishee herein doing business in the name

of _____.
(State full name and address of business)

IF GARNISHEE IS A PARTNERSHIP:

That he/she is a member of _____, a partnership which Garnishee is a
partner.

IF GARNISHEE IS A CORPORATION:

That he/she is the _____ (Official Title) of Garnishee, _____
a corporation, organized under the laws of the State of _____.

On _____, 200__, Garnishee was served with the Writ of Garnishment.

1. The Garnishee has custody, control or possession of the following property (non-earnings), in which the defendant maintains an interest, as described below:

| <u>Description of Property</u> | <u>Approximate Value</u> | <u>Description of Debtor's Interest in Property</u> |
|--------------------------------|--------------------------|---|
| 1. _____ | _____ | _____ |
| 2. _____ | _____ | _____ |
| 3. _____ | _____ | _____ |
| 4. _____ | _____ | _____ |

Garnishee anticipates owing to the judgment-debtor in the future, the following amounts:

| | <u>Amount</u> | <u>Estimate date or Period Due</u> |
|----|---------------|------------------------------------|
| 1. | \$ _____ | _____ |
| 2. | \$ _____ | _____ |
| 3. | \$ _____ | _____ |
| 4. | \$ _____ | _____ |

(Check the applicable line below if you deny that you hold property subject to this order of garnishment.)

- The Garnishee makes the following claim of exemption on the part of Defendant:
_____.
- The Garnishee has the following objections, defenses, or set-offs to Plaintiff's right to apply Garnishee's indebtedness to Defendant upon Plaintiff's claim:
_____.
- The Garnishee was then in no manner and upon no account indebted or under liability to the Defendant and that the Garnishee did not have in his/her possession or control any property belonging to the Defendant, or in which the Garnishee has an interest; and is in no manner liable as Garnishee in this action.

The Garnishee mailed a copy of this answer by first-class mail to: (1) Phillip Hyde, 26 Union Street Cambridge, MA 02141; and (2) Christopher R. Donato, Assistant U.S. Attorney, 1 Courthouse Way, Suite 9200, Boston, MA 02210.

Garnishee

Subscribed and sworn to before me this ____ day of _____.

Notary Public

My Commission expires:

ATTACHMENT TO ANSWER OF GARNISHEE

The Original Answer must be mailed to:

Clerk, United States District Court
John Joseph Moakley United States Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

and a copy of this Answer to:

United States Attorney's Office
Financial Litigation Division
John Joseph Moakley United States Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210

and to:

Phillip Hyde
26 Union Street
Cambridge, MA 02141